

AMENDED IN ASSEMBLY APRIL 28, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 2552

Introduced by Assembly Member Nestande

February 19, 2010

An act to ~~add Section 15265 to~~ amend Sections 15268 and 15270 of, and to add Section 15151 to, the Education Code, relating to education finance.

LEGISLATIVE COUNSEL'S DIGEST

AB 2552, as amended, Nestande. Education finance: cash out refinancing.

Existing law establishes the system of public elementary and secondary schools and public institutions of higher education in this state. Under existing law, part of the funding for the public institutions of elementary, secondary, and postsecondary institutions in this state is derived from the sale of bonds whose issuance is approved by voters either statewide or within the jurisdiction of a local educational agency.

This bill would ~~prohibit the proceeds of bonds issued by a local educational agency pursuant to a measure approved by the voters on or after January 1, 2011, from being used for cash out refinancing unless authority for that procedure has been explicitly included in that bond measure. The bill would define “cash out refinancing” to mean the issuance of refunding general obligation bonds to generate proceeds beyond the amount that would be needed to retire the bonds outstanding prior to the refinancing~~ authorize a portion of the proceeds of the sale of refunding bonds to be set aside and applied solely to the purposes for which the bonds to be refunded were authorized to be issued by the voters and limits that amount to the net present value if the amount by

which the total debt service to maturity on the bonds to be refunded exceeds the total debt service to maturity on the refunding bonds.

Existing law authorizes the issuance of school district bonds if the tax rate would not exceed \$30 per \$100,000, or \$60 per \$100,000 in the case of a unified school district, of taxable property when the assessed valuation is projected to increase in accordance with specified constitutional provisions.

This bill would authorize those bonds at those rates when the assessed valuation of the taxable property is projected to increase, instead, at an annual rate no greater than the average annual rate of growth in assessed value in the issuing district over a 20-year period preceding the issuance.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 15151 is added to the Education Code,
2 to read:
3 15151. (a) The proceedings for issuance of refunding bonds
4 of a school district or community college district pursuant to Article
5 9 (commencing with Section 53550) of Chapter 3 of Part 1 of
6 Division 2 of Title 5 of the Government Code may provide that a
7 portion of the proceeds of sale of the refunding bonds be deposited
8 in the building fund of the district, or a special account in that
9 fund, as appropriate. The amount deposited in the building fund
10 or special account pursuant to this subdivision shall be applied
11 solely to the purposes for which the bonds to be refunded were
12 authorized to be issued by the voters of the district.
13 (b) The portion of the proceeds of the sale of the refunding bonds
14 deposited pursuant to subdivision (a) shall be no greater than the
15 net present value of the amount by which the total debt service to
16 maturity on the bonds to be refunded exceeds the total debt service
17 to maturity on the refunding bonds. The net present value shall be
18 calculated using the discount rate equal to the yield on the
19 refunding bonds, as the yield is required to be calculated under
20 the United States Internal Revenue Code and United States
21 Treasury regulations promulgated under that code.
22 (c) The annual debt service on the refunding bonds shall be no
23 greater than the annual debt service on the bonds to be refunded

1 *in each year that the refunding bonds are scheduled to be*
2 *outstanding.*

3 *(d) Calculation of the amounts described in subdivisions (b)*
4 *and (c) shall be certified by a certified public accountant or*
5 *accounting firm licensed to practice in the state, by a holder of a*
6 *valid permit to practice public accountancy issued by the*
7 *California Board of Accountancy, or by a holder of a practice*
8 *privilege pursuant to Article 5.1 (commencing with Section 5096)*
9 *of the Business and Professions Code.*

10 *(e) Refunding bonds may only be issued pursuant to this section*
11 *if the tax rate that will be required to be levied to meet the*
12 *requirements of Section 18 of Article XVI of the California*
13 *Constitution with respect to the refunding bonds and all other*
14 *bonds of the district to remain outstanding would not exceed, in*
15 *any year the refunding bonds are scheduled to be outstanding, the*
16 *rate levied for all those bonds in the fiscal year the refunding bonds*
17 *are issued, when assessed valuation is projected by the district to*
18 *increase at an annual rate not greater than the average annual*
19 *rate of growth in assessed value in that district over the 20-year*
20 *period preceding the issuance.*

21 *SEC. 2. Section 15268 of the Education Code is amended to*
22 *read:*

23 15268. The total amount of bonds issued, including bonds
24 issued pursuant to Chapter 1 (commencing with Section 15100),
25 shall not exceed 1.25 percent of the taxable property of the district
26 as shown by the last equalized assessment of the county or counties
27 in which the district is located. The bonds may only be issued if
28 the tax rate *that will be required to be levied to meet the* requirements of Section 18 of Article XVI of the California
29 Constitution ~~in the case of indebtedness incurred by a school~~
30 ~~district~~ *with respect to indebtedness authorized pursuant to this*
31 *chapter, at a single election, including bonds issued to refund*
32 *authorized indebtedness, would not exceed thirty dollars (\$30) per*
33 *year per one hundred thousand dollars (\$100,000) of taxable*
34 *property when assessed valuation is projected by the district to*
35 *increase in accordance with Article XIII A of the California*
36 ~~Constitution~~ *at an annual rate not greater than the average annual*
37 *rate of growth in assessed value in that district over the 20-year*
38 *period preceding the issuance.* For purposes of this section, the
39 taxable property of a district for any fiscal year shall be calculated
40

1 to include, but not be limited to, the assessed value of all unitary
2 and operating nonunitary property of the district, which shall be
3 derived by dividing the gross assessed value of the unitary and
4 operating nonunitary property within the district for the 1987–88
5 fiscal year by the gross assessed value of all unitary and operating
6 nonunitary property within the county in which the district is
7 located for the 1987–88 fiscal year, and multiplying that result by
8 the gross assessed value of all unitary and operating nonunitary
9 property of the county on the last equalized assessment roll.

10 *SEC. 3. Section 15270 of the Education Code is amended to*
11 *read:*

12 15270. (a) Notwithstanding Sections 15102 and 15268, any
13 unified school district may issue bonds pursuant to this article that,
14 in aggregation with bonds issued pursuant to Chapter 1
15 (commencing with Section 15100), may not exceed 2.5 percent of
16 the taxable property of the district as shown by the last equalized
17 assessment of the county or counties in which the district is located.
18 The bonds may only be issued if the tax rate *that will be required*
19 *to be* levied to meet the requirements of Section 18 of Article XVI
20 of the California Constitution ~~in the case of indebtedness incurred~~
21 *with respect to indebtedness authorized* pursuant to this chapter
22 at a single election, by a unified school district, *including bonds*
23 *issued to refund authorized indebtedness*, would not exceed sixty
24 dollars (\$60) per year per one hundred thousand dollars (\$100,000)
25 of taxable property when assessed valuation is projected by the
26 district to increase ~~in accordance with Article XIII A of the~~
27 ~~California Constitution~~ *at an annual rate not greater than the*
28 *average annual rate of growth in assessed value in that district*
29 *over the 20-year period preceding the issuance.*

30 (b) Notwithstanding Sections 15102 and 15268, any community
31 college district may issue bonds pursuant to this article that, in
32 aggregation with bonds issued pursuant to Chapter 1 (commencing
33 with Section 15100), may not exceed 2.5 percent of the taxable
34 property of the district as shown by the last equalized assessment
35 of the county or counties in which the district is located. The bonds
36 may only be issued if the tax rate *that will be required to be* levied
37 to meet the requirements of Section 18 of Article XVI of the
38 California Constitution ~~in the case of indebtedness incurred~~ *with*
39 *respect to indebtedness authorized* pursuant to this chapter at a
40 single election, by a community college district, *including bonds*

1 *issued to refund authorized indebtedness, would not exceed*
2 *twenty-five dollars (\$25) per year per one hundred thousand dollars*
3 *(\$100,000) of taxable property when assessed valuation is projected*
4 *by the district to increase in accordance with Article XIII A of the*
5 ~~*California Constitution*~~ *at an annual rate not greater than the*
6 *average annual rate of growth in assessed value in that district*
7 *over the 20-year period preceding the issuance.*

8 (c) In computing the outstanding bonded indebtedness of any
9 unified school district or community college district for all purposes
10 of this section, any outstanding bonds shall be deemed to have
11 been issued for elementary school purposes, high school purposes,
12 and community college purposes, respectively, in the respective
13 amounts that the proceeds of the sale of those outstanding bonds,
14 excluding any premium and accrued interest received on that sale,
15 were or have been allocated by the governing board of the unified
16 school district or community college district to each of those
17 purposes respectively.

18 (d) For purposes of this section, the taxable property of a district
19 for any fiscal year shall be calculated to include, but not be limited
20 to, the assessed value of all unitary and operating nonunitary
21 property of the district, which shall be derived by dividing the
22 gross assessed value of the unitary and operating nonunitary
23 property within the district for the 1987–88 fiscal year by the gross
24 assessed value of all unitary and operating nonunitary property
25 within the county in which the district is located for the 1987–88
26 fiscal year, and multiplying the result by the gross assessed value
27 of all unitary and operating nonunitary property of the county on
28 the last equalized assessment roll. ~~In the event of the unification~~
29 ~~of~~ *If two or more school districts are unified* subsequent to the
30 1987–88 fiscal year, the assessed value of all unitary and operating
31 nonunitary property of the unified district shall be deemed to be
32 the total of the assessed value of the taxable property of each of
33 the unifying districts as that assessed value would be determined
34 under Section 15268.

35 (e) For the purposes of this article, “general obligation bonds,”
36 as that term is used in Section 18 of Article XVI of the California
37 Constitution, means bonds of a school district or community
38 college district the repayment of which is provided for by this
39 chapter and Chapter 1 (commencing with Section 15100) of Part
40 10, and includes bonds of a school facilities improvement district

1 the repayment of which is provided for by this chapter and Chapter
2 2 (commencing with Section 15300).

3 ~~SECTION 1. Section 15265 is added to the Education Code,~~
4 ~~to read:~~

5 ~~15265. (a) This section applies to any bonds issued by a local~~
6 ~~educational agency pursuant to a measure approved by the voters~~
7 ~~on or after January 1, 2011.~~

8 ~~(b) The proceeds of bonds issued by a local educational agency~~
9 ~~shall not be used for cash out refinancing unless authority for that~~
10 ~~procedure has been explicitly included in the bond measure~~
11 ~~approved by the voters.~~

12 ~~(c) As used in this section, "cash out refinancing" means the~~
13 ~~issuance of refunding general obligation bonds to generate proceeds~~
14 ~~beyond the amount that would be needed to retire the bonds~~
15 ~~outstanding prior to the refinancing.~~